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AUG 22 2008

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BY FAX

Honorable Naomi R. Buchwald
United States District Court Judge
Southern District of New York
500 Pearl Street
New York, New York 10007
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UNITED STATES DISTRICT COURT

USDS SDNY
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Re: Timothy Kennedy v. The City of New York, et al., 07 CV 10622 (NRB)

Dear Judge Buchwald:

I am the Assistant Corporation Counsel in the Office of Michael A. Cardozo, Corporation Counsel for the City of New York, assigned to the above-referenced case on behalf of defendants the City of New York, Police Officer Juan Rodriguez, Police Officer Jeffrey Hunold and Sergeant Joseph Peragallo. I am writing with the partial consent of plaintiff's counsel, George Wachtel, Esq., to respectfully request that the City be granted a two month enlargement of the discovery deadline from August 26, 2008, until October 27, 2008.¹ This is the City's first request for an enlargement of the discovery deadline.

As background, the complaint in this matter alleges, *inter alia*, that plaintiff Timothy Kennedy was subjected to false arrest and imprisonment, excessive force, deliberate indifference to medical need, assault and battery stemming from an incident that took place on the Upper West Side of Manhattan on or about May 28, 2007.

Discovery is currently scheduled to close in this matter on August 26, 2008. An enlargement of discovery is necessary for a number of reasons. First of all, this office only recently received plaintiff's voluminous medical documentation (approximately 500 pages) which was necessary for a full assessment of this case. After reviewing plaintiff's medical records, defendants believe it will be necessary to retain a medical expert in order to fully

¹ Mr. Wachtel is only consenting to a thirty day extension of discovery in this matter.

Final
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investigate plaintiff's medical claims. Secondly, despite settlement discussions between the parties, there is currently no resolution to this matter. To date, no depositions have been taken, as defendants were hopeful that this matter could be resolved prior to incurring the further litigation cost of depositions. As no resolution has been reached, both parties now intend to proceed to depositions in this matter and are in discussions about potential deposition dates. Defendants estimate taking approximately six depositions in this matter, and plaintiff intends to depose at least the three individually named defendant police officers in this matter. Thirdly, I will be engaged in trial preparation and participating as trial counsel before Judge Charles P. Sifton in the Eastern District of New York in the case of Harwinder Vilku v. City of New York, et. al., 06 CV 2095 (CPS)(JO), which is scheduled to commence on September 15, 2008. The parties in that matter have estimated that the Vilku trial will last between four (4) to seven (7) days. Therefore, I will be unavailable to participate in discovery in this matter during the weeks of September 8, 2008, September 15, 2008, and potentially part of the week of September 22, 2008. Therefore, an enlargement of discovery will allow time for this office to retain a medical expert to evaluate this case and for the parties in this matter to schedule and conduct depositions.

Accordingly, for the reasons set forth herein, defendants respectfully request that the court grant a two month enlargement of discovery from August 26, 2008, until October 27, 2008.

Thank you for your consideration in this regard.

Respectfully submitted,



Robyn N. Pullio (RP 7777)
Assistant Corporation Counsel

cc: **BY FAX**
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